

ton per mile for transportation; and for the transportation of passengers not exceeding four cents per mile for each passenger and baggage, not weighing more than fifty pounds, nor occupying a space of more than two cubic feet. In this provision the *tolls* are exclusively to be charged on the *cars not* owned by the company, for their right of ways; the license or permit following in this section, being substituted or answering to the 16th section of the Pennsylvania and 18th of the Delaware charters.

The company under this act are clearly restricted, in our opinion, to the charge of four cents per ton per mile for freight, and four cents for transportation of passengers; but whether they are allowed to charge any thing additional for tolls in their own cars we are not prepared to say. The 23th section gives them the right to charge for transportation of any parcel or article any distance whatsoever, twelve and a half cents, and the same for taking up and setting down any person who shall travel a distance not exceeding eight miles in addition to the charge of four cents per mile for conveyance of such person.

We will now examine what influence on the subject of charges for freight and passengers is had by the articles of union of these several companies. By the act passed December session 1835, entitled a supplement to an act to incorporate the Delaware and Maryland Rail Road Company and the Wilmington and Susquehanna Rail Road Company; these companies are made one corporate body, under the name and style of the Wilmington and Susquehanna Rail Road Company. By an act passed by the General Assembly of Delaware, July 24, 1835, if approved by the General Assembly of Maryland, the Delaware and Maryland Rail Road Company and the Wilmington and Susquehanna Rail Road Company were united under the name and style of "the Wilmington and Susquehanna Rail Road Company," with power to hold and possess and enjoy all the rights, property and privileges, and to exercise all the power granted to or vested in the said rail road companies, or either of them, by this or any other law of the State of Delaware, or of Maryland. This law was accepted by the State of Maryland at December session 1835, ch. 93, passed, March 14, 1836. and a further increase of stock to the said company and change of name and style of said company, to that of the Philadelphia, Wilmington and Baltimore Rail Road Company—repealing all laws inconsistent with the said act; without mentioning any restrictions as it respects tolls or transportation except in the 5th section which says in a proviso, that "nothing herein contained shall be so construed as to prevent the Legislature of this State at any time after the expiration of twenty years from the completion of said Delaware and Maryland Rail Road, from legislating on the subject of tolls authorized to be charged by said company under the provisions of the original act and its several supplements, provided that at no time shall the said tolls be so regulated or reduced as to yield less than twelve per cent per annum;"—and again, these companies, by an act passed January 30th, 1838, December session, 1837, ch. 30,